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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

DENISE COOK and KENNETH COOK

Plaintiffs,

v.

BENEFICIAL OREGON INC., a Delaware
Corporation; SHAPIRO & SUTHERLAND,
LLC, a Washington State LLC

Defendants.

Case No. 10-cv-03121-PA

DEFENDANT BENEFICIAL OREGON
INC.'S MOTION FOR SUMMARY
JUDGMENT

ORAL ARGUMENT REQUESTED

I. CERTIFICATION

Pursuant to Local Rule 7.1, Defendant certifies that its has made a good faith effort through personal conference to resolve the matters addressed in this Motion with the opposing party but have been unable to do so.

II. MOTION

Pursuant to Fed. R. Civ. P. 56, Defendant, Beneficial Oregon Inc. moves this court for an order granting summary judgment dismissing Plaintiffs' claims for an accounting, spoliation, fraud and declaratory judgment.

DEFENDANT BENEFICIAL OREGON'S
MOTION FOR SUMMARY JUDGMENT - 1

Plaintiffs' claims are premised on the notion that Beneficial Oregon was not the beneficiary of the Deed of Trust on their Property, and thus was not entitled to foreclose. In support of their claims, they offer nothing more than speculation and vague allegations regarding the mortgage industry generally; they offer no evidence that shows that Beneficial Oregon acted in way inappropriately. Indeed, the recorded documents and testimony show that Beneficial Oregon was in fact the Beneficiary under the Deed of Trust, and was authorized to foreclose. There are no issues of material fact regarding Beneficial Oregon's authority to foreclose.

Similarly, the evidence shows that the sale of the Property was properly conducted. There are no issues of material fact regarding the sale itself. Consequently, Plaintiffs have no colorable claims against Beneficial Oregon, and their Complaint should be dismissed as a matter of law.

Defendant's motion is supported by its Memorandum of Law, the Declarations of Phyllis Johnston and Kelly D. Sutherland, and the exhibits attached thereto.

Dated this 8th day of March, 2011.

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